UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
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REGIONAL
ADMINISTRATOR'S
DIVISION

April 1, 2022

Tammie Poitra, Regional Director
Midwest Region
Bureau of Indian Affairs
5600 American Boulevard West, Suite 500
Bloomington, Minnesota 55437

Dear Ms. Poitra:

The U.S. Environmental Protection Agency has reviewed the Bureau of Indian Affairs' (BIA) Draft Environmental Assessment for the Confederated Tribes of Siletz Indians (Tribe) Salem Gaming Facility Project (EPA Region 10 Project Number 22-0017-BIA). The project is located on 20-acre Trust Parcel in the City of Salem, Marion County, Oregon. EPA has conducted its review pursuant to the National Environmental Policy Act and our review authority under Section 309 of the Clean Air Act.

The DEA evaluates the potential environmental impacts associated with construction and operation of a casino resort, including parking improvements at two fee land (8 acres) parcels south of the Trust Parcel. Proposed facilities will include a casino; food, beverage, and retail facilities; a 500-room hotel; an events center; up to five-story parking garage; and two surface parking lots. Surrounding land uses are primarily urban and commercial in nature, with access via State Highway 99E and Interstate 5. The DEA considers three action alternatives, a no action alternative, and does not identify a preferred alternative.

EPA supports BIA's objective to promote the Tribe's long-term economic development, while conserving environmental resources in the analysis area. EPA finds the DEA includes a good description of resources in the project area and vicinity, anticipated impacts, and measures to offset impacts. Most project impacts will be due to construction activities and include temporary and permanent impacts due to the project footprint. Best management practices and low impact development techniques will be used to minimize impacts.

Enclosed are EPA's recommendations to improve the environmental analysis in the Final EA. In addition, EPA recommends BIA identify a preferred development alternative, and continue coordinating with federal, state, and local agencies, affected tribes and entities, and adjacent businesses and landowners to the project site.

Thank you for the opportunity to comment on this DEA. If you have questions about our comments, please contact Theo Mbabaliye of my staff at (206) 553-6322 or at mbabaliye.theogene@epa.gov, or me at (206) 553-1774 or at chu.rebecca@epa.gov.

Sincerely,

Rebecca Chu
Digitally signed by Rebecca Chu
Date: 2022.04.01 12:29:54 -07'00'

Rebecca Chu, Chief
Policy and Environmental Review Branch

USEPA Detailed Comments on the Siletz Indians' Salem Gaming Facility Project DEA Salem, Marion County, Oregon

Potential impacts on air quality
EPA recommends the Final EA:

- Include quantitative data on current air quality conditions within the project area (baseline emissions), indicating whether the area meets the National Ambient Air Quality Standards.[1] This is important because localized air quality conditions can be substantial (e.g., during wildfire burns), even though area-wide and/or long-term emissions monitoring may show compliance with NAAQS.
- Estimate air emissions from all sources for the analysis area; discuss the timeframe for release of these emissions; and determine whether the emissions will exceed NAAQS. For accurate air emission estimates, EPA recommends the analysis use the latest version of EPA's Motor Vehicle Emission Simulator (MOVES3).[2] MOVES 2014 is outdated and use of the EMission FACtor (EMFC) model for the project is inappropriate since it is specific to the state of California.
- Include a summary of the project-related Mobile Source Air Toxics analysis results using the most recent EPA model for analysis of these emissions and related health risks.[3] If there will be significant air toxics emissions, consider giving preference to contractors using highest engine Tier available (Tier 3 or 4) machinery to reduce air toxics emissions during construction.
- Discuss outcomes of the anticipated EPA's Minor New Source Review for use of boilers and emergency generators for the project, including recommended measures to protect air quality. For questions about the MNSR, please contact Doug Hardesty at (208) 378-5759 or Hardesty.Doug@epa.gov.
- Discuss plans to monitor air quality in the project area and take corrective action if the NAAQS are not met. This is important because the DEA indicates there are sensitive receptors in the project area and motor vehicle traffic will more than double in the area due to the project.
- Discuss results of best technology analysis to be conducted to address emissions impacts to Mount Hood Wilderness and Mount Jefferson Wilderness.
- Identify appropriate mitigation measures to reduce emissions and comply with federal and state air quality regulations if emissions exceed the standards.
- Provide information on coordination with other entities in the area, such as the State of Oregon and local air organizations, to ensure emissions due to the proposed project are reduced and mitigated throughout the proposed project lifespan.

Although background concentrations of criteria pollutants within the analysis area are currently below standards, there is potential for significant local air emissions from the project due to fugitive dust

[1] https://www.epa.gov/criteria-air-pollutants/naaqs-table
[2] https://www.epa.gov/moves/latest-version-motor-vehicle-emission-simulator-moves
[3] https://www.epa.gov/national-air-toxics-assessment

releases during ground disturbing activities and cumulative effects from surrounding activities[4]. Changes in climate for Oregon also indicate there will be larger and more frequent wildfires, which may exacerbate air conditions locally.[5] The DEA does not currently include data to show the extent to which these sources of emissions maybe impacting the NAAQS.

The DEA states there are facilities in the analysis area that house or attract sensitive receptors (children, the elderly, and people with illnesses, or others who are especially sensitive to the effects of air pollutants) to the area, including a mobile home park, the Hee Hee Illahee RV Resort, a residential community, the Chemawa Indian School, and Salem Hospital. Also, there are two Class I areas near the analysis area, Mount Hood Wilderness and Mount Jefferson Wilderness. Therefore, actions to monitor emissions locally and assessing related health effects appear warranted.

Environmental Justice considerations

Because the proposed project has the potential for impacts to communities with EJ concerns, EPA recommends that the Final EA:

- Include a detailed analysis of potential impacts to communities with EJ concerns in the analysis area.
- Better characterize communities with potential EJ concerns. Use block groups (the smallest geographical unit for which the U.S. Census Bureau publishes detailed demographic data) for EJ impacts analysis rather than larger tracts, such as counties or cities, which may dilute the presence of low-income populations and/or vulnerable populations and their concerns. In identifying disproportionately high and adverse human health effects, consider:
    - Identifying all block groups within a one-mile radius of the proposed project site that are greater than or equal to 50% minority and/or 50% low-income population. These include block groups with census tracts 15.01, 15.02, 15.03, 14.01, 14.02, 4, 5.01, 5.02, 16.03, 16.05, 16.06, 16.07, and southern portions of 25.02.
    - Documenting all block groups that are greater than or equal to a 50% threshold and with high and adverse human health risks to particulate matter, ozone, and traffic proximity.
- Identify and address any disproportionately high and adverse human health or environmental effects of the project on minority and low-income populations, including cumulative effects. Considerations may include:
    - Identifying measures to reduce air pollution through changes in processes or technologies.
    - Relocating affected communities, upon request or with concurrence from the affected individuals.
    - Tailoring the timing of impact-causing actions (e.g., air pollution) to reduce effects on historically overburdened, underserved and marginalized populations (e.g. people of color, low-income communities) and children.
- Consider impacts of climate change on communities in this project analysis area.

[4] For example: road construction and site preparations, regular traffic on dirt roads, emissions from vehicles using local roads, including I-5 and State Highway 99E, agriculture, wildfires, use of woodstoves in the area, etc

[5] https://oregonstate.app.box.com/s/7mynjzhda9vunbzqib6mn1dcpd6q5jka

Executive Order 12898 directs federal agencies to identify and address the disproportionately high and adverse human health or environmental effects of their actions on minority and low-income populations, *to the greatest extent practicable* and permitted by law. Key to an EJ analysis is the selection of the appropriate level of geographic analysis. By solely focusing on the Census Tract level, no environmental concerns were found. The appropriate units of geographic analysis are a neighborhood census tract and its similar unit, block groups. Analyzing at the block group level prevents artificial dilution (or inflation) of the affected minority and low-income populations when no affected population are found at the census tract level.

The EJ analysis in the DEA did not identify and address these effects. It is true that both the minority and low-income population in Census Tract 16.01 are below 50%. A closer review of the four census blocks within Census Tract 16.01 results in refined information about the tract.

Two of the four block groups within Census Tract 16.01 are above a 50% analysis threshold for minority population. Block Groups 410470016011 (6011) and 410470016025 (6025) are 54% and 62% minority, respectively. Block Group 410470016021 (6021) directly south of the project site is above the 50% for minority and low-income population. Block Group 6021 is 64% minority and 75% low-income population.

The primary concern for block groups 6011, 6025, and 6021 are the disproportionate effects of air pollution, specifically, particulate matter, volatile organic compounds, and nitrogen oxide. The DEA also anticipates the proposed project will result in significant adverse effects associated with traffic noise levels, which could exacerbate the receptors' health risks. Traffic volume (combustible engines) cumulatively contribute to disproportionately high and adverse human health effects (noise and ground level ozone and particulate matter), all of which can impact human health. Ozone, for example, can impact lungs and trigger chest pains, coughs, and congestion. Similarly, high levels of particulate matter with diameters 2.5 micrometers ($PM_{2.5}$) and smaller can also impact the respiratory tract, resulting in lung and other health effects.

Potential impacts to water quality
EPA recommends that the Final EA:

- Provide up to date information on the anticipated National Pollutant Discharge Elimination System permit application process and recommended measures to protect water quality. The DEA indicates that project construction will disturb an area of up to 28 acres, which meets the threshold (more than one acre) for authorization to discharge stormwater to waters of the United States from an EPA issued NPDES permit. A related Stormwater Pollution Prevention Plan may also be required, as well as construction best management practices. As the project anticipates obtaining the NPDES permit from EPA, we encourage BIA contact our NPDES program as early as possible. The EPA Region 10 Staff contact is Margaret McCauley and can be reached at (206) 553-1772 or mccauley.margaret@epa.gov.[6]
- Discuss water use and conservation and indicate steps to be taken to ensure sustainable water use during the project, including water reliability for the facilities, and the effects of climate change. The facilities' design, for example, may include elements such as use of recycled water for

[6] https://www.epa.gov/npdes-permits/stormwater-discharges-construction-activities-region-10

landscaping, xeric landscaping, and water conservation outreach to maximize water conservation. More information is available within EPA's *Water Conservation Plan Guidelines*.[7]

- Indicate plans to coordinate with other stormwater management entities in the project area, such as ODEQ, to ensure that state and tribal water resources are protected from impacts associated with the proposed project's construction and operation activities.

The DEA indicates that water quality may be adversely affected if the project construction activities, including blasting, surface grading, excavation, and surface pavement, and building roofs alter the hydrology of springs and surface runoff. Where that occurs, erosion may carry sediment to surface waters and pollutants to local drainages and the underlying aquifer. In addition, land disturbance, material storage, waste disposal, inadvertent chemical or hazardous liquid spills, and compaction produced by vehicular traffic can all affect recharge to the local aquifer and groundwater quality. Consequently, it is important for BIA to coordinate with other agencies, particularly ODEQ, to ensure state and tribal water resources are protected and used judiciously during the project implementation.

The proposed surface water drainage and retention systems, and Best Management Practices will lessen the impacts of stormwater runoff from impervious surfaces. Pollutants are still likely to accompany discharge to surface waters and infiltrate to ground water. In addition to obtaining NPDES permit for the project, note that under Section 438 of the Energy Independence and Security Act, federal agencies must reduce stormwater runoff from federal development projects to protect water resources.[8] Please consult the EPA Technical Guidance on Implementing the Stormwater Runoff Requirements for Federal Projects under Section 438 of EISA.[9] In addition to strategies outlined in this guidance, it will also be useful to consult with ODEQ for relevant stormwater management practices in the project area.

Energy Efficiency and Sustainability

EPA recommends that the FEA discuss energy efficiency and conservation in the context of Executive Order 14057, *Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability* and show how the project will fully comply with this order.[10] The proposed project will involve construction, operation and maintenance of buildings and facilities and EPA expects the EA to include information on energy use and conservation, consistent with E.O. 14057. Considerations to address the E.O. may include but not limited to, the following:

- Increase facility energy efficiency.
- Measure, report, and reduce greenhouse gas emissions from direct and indirect activities.
- Conserve and protect water resources through efficiency, reuse, and stormwater management
- Eliminate waste, recycle, and prevent pollution.
- Leverage agency acquisitions to foster markets for sustainable technologies and environmentally preferable materials, products, and services.
- Design, construct, maintain, and operate high performance sustainable buildings in sustainable locations.

[7] https://www.epa.gov/watersense/water-conservation-plan-guidelines
[8] https://www.govinfo.gov/content/pkg/BILLS-110hr6enr/pdf/BILLS-110hr6enr.pdf
[9] http://www.epa.gov/owow/NPS/lid/section438/#techguid
[10] https://www.fedcenter.gov/programs/eo14057/

- Strengthen the vitality and livability of the communities in which facilities are located.

Project monitoring and adaptive management

The proposed project has the potential to impact resources in the project area and vicinity for a long time. EPA recommends the FEA:

- Include a monitoring program designed to assess impacts from the project and effectiveness of the proposed mitigation measures.
- Indicate in the document how the monitoring program will be used as an effective feedback mechanism to ensure environmental objectives will be met throughout the project period. For example, monitor criteria pollutants and take corrective action if pollutant levels exceed standards or pose risk to human health and the environment.
- Discuss lessons learned from past practices in developing similar projects, identify new challenges, such as climate change, and incorporate this information to help improve the design and management of the proposed project. This is not the first casino and hotel facility authorized by BIA.